



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John Joseph MAZZITELLI Confirmation No.: 9901
Application Serial No.: 09/964,036
Filed: September 26, 2001
Title: STATE DATA MANAGEMENT METHOD AND SYSTEM

Group Art Unit: 2142
Examiner: Lin, Kelvin Y.

Docket No.: 10015525-1

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL-BRIEF REQUEST FOR REVIEW

Sir:

The Final Office Action mailed October 3, 2005 (hereinafter "10-3-05/OA") has been carefully considered. Claims 1-23 remain pending. Please consider the following remarks:

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Cindy C. Dioso

REMARKS**I. Applicants' Declaration under 37 C.F.R. §1.131 is Effective**

In the 10-3-05/OA, the Examiner indicates that the Declaration filed on November 26, 2004 (and filed again on July 14, 2005) was considered but deemed ineffective for overcoming a 35 U.S.C. § 102(e) rejection of Claims 1-23 of the present Application over U.S. Patent Publication No. 20030080994 issued to Yepishin et al. (hereinafter "*Yepishin*"). Applicants respectfully traverse. In particular, the Examiner asserts that Applicants' declaration is inappropriate under 37 C.F.R. § 1.131 because the reference (*Yepishin*) is claiming the same patentable invention as Applicants' claims (see page 2 of the 10-3-05/OA). We disagree. For example, Applicants' Claim 1 recites "identifying state data from a response structured using an Internet communications protocol to be delivered to a uniquely identifiable client" and "associating the state data with the [uniquely identifiable] client" (emphasis added) (see page 2 of the Office Action Response filed on July 14, 2005 (hereinafter "7-14-05/OAR")). Applicants respectfully submit that at least the above-referenced limitation is not recited by the claims of *Yepishin*. Further, for example, claim 1 of *Yepishin* recites "comparing the output structure definition to a predefined state definition of a recorded state" which is not recited by the claims of Applicants' Application. Applicants respectfully submit that the claims of the present Application are patentably distinct from the claims of *Yepishin*. Moreover, the Examiner has not explicitly identified any particular claims of the present Application or *Yepishin* that are purportedly claiming the same invention, nor has the Examiner explicitly identified why the Examiner finds that the claims of the present Application are not patentably distinct from the claims of *Yepishin*, which appears to be required pursuant to M.P.E.P. § 715.05 to support the Examiner's finding of the declaration being ineffective.

Additionally, the Examiner appears to assert that Applicants' Declaration is ineffective because the evidence submitted therewith is insufficient to establish a conception of the invention as claimed by Applicants (see page 2 of the 10-3-05/OA). Specifically, the Examiner states: "Because the basic inventive concept, HTTP cookie proxy in the affidavit, fails to indicate

in the applicant's claim [sic]." (see page 2 of the 10-3-05/OA). We disagree. Claim 1 of Applicants' Application, for example, recites:

- identifying state data from a response structured using an Internet communications protocol to be delivered to a uniquely identifiable client enabled to communicate using the Internet communications protocol;
- associating the state data with the client;
- storing the state data in a data storage area remote from the client; and
- delivering the response to the client.

The invention disclosure form submitted with the Declaration as proof of conception of the invention prior to the purported effective date of *Yepishin* clearly indicates identifying state data (e.g., a cookie) corresponding to a unique client in a response from a web server, associating that state data with the unique client, storing the state data remote from the client, and delivering the response to the client (see at least page 3 (section A), page 5 (section B), and page 6 (section C) of the submitted invention disclosure form). Thus, Applicants respectfully submit that the evidence submitted with the Declaration is sufficient to establish conception of the invention as claimed in Applicants' Application. Accordingly, Applicants submit that the Examiner's finding that Applicants' Declaration is ineffective to overcome the *Yepishin* reference is improper and should be withdrawn.

Thus, Applicants respectfully submit that the use of *Yepishin* to reject Claims 1-23 is improper and that *Yepishin* should be withdrawn as a reference. Therefore, Applicants respectfully request that the rejection of Claims 1-23 based on *Yepishin* be withdrawn and that Claims 1-23 be allowed.

CONCLUSION

Accompanying this Request is a Notice of Appeal pursuant to 37 C.F.R. 41.31. The Commissioner is hereby authorized to charge the sum of \$500.00 for the Notice of Appeal to Deposit Account No. 08-2025 of Hewlett-Packard Company. No further fee is believed due with this Request. If, however, Applicants have overlooked the need for any other fee due with this Request, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

By: James L. Baudino
James L. Baudino
Reg. No. 43,486

Date: December 23, 2005

Correspondence to:
L.Joy Griebenow
Hewlett-Packard Company
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400
Tel. 970-898-3884